

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

Updated for the 2018 Session. Includes any amendments adopted to-date.

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates)				
	FY 2018-19		FY 2019-20	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

This bill would provide for reimbursement to employees for certain medical examinations under the Nebraska Workers' Compensation Act.

DAS Risk Management (DAS) estimates the following impact from this bill:

	FY2018-19	FY2019-20
Fund Source:	EXPENDITURES	EXPENDITURES
GENERAL FUNDS	197,264	197,264
CASH FUNDS	290,114	290,114
FEDERAL FUNDS	168,440	168,440
OTHER FUNDS	124,182	124,182
TOTAL FUNDS	780,000	780,000

See the agency response attached for additional details not included in this fiscal note.

Workers' compensation assessments are based on actuarial studies that identify actual claims and loss history for each agency. Therefore, the cost estimate of DAS is more illustrative of potential costs because such costs must occur before they can be worked into the assessments charged to the agencies impacted by this bill.

Additionally, the costs estimated by DAS appear high. However, if these additional costs do occur, the Workers' Compensation Claims Fund (Fund 58920) had a balance of almost \$24 million as of November 30, 2017, giving DAS a cushion to cover any increased costs imposed by this bill until DAS is able to work these increased costs into the workers' compensation assessments.

In 2017, the Workers' Compensation Court estimated no fiscal impact from this bill.

In 2017, the city of Imperial estimated a \$100 impact in FY18 and FY19. Imperial noted that this is not anticipated to occur annually, but is likely an average cost.

In updated fiscal note responses received in 2017, the city of Omaha estimated an annual cost of \$445,000, and the City of Lincoln stated that the fiscal impact from this bill may be \$100,000 if the claimant is limited to one opinion. See their responses attached for additional details. While there could be additional costs for complying with this bill, both cities' estimates appear high.

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 181 (65)	AM:	AGENCY/POLT. SUB: Department of Administrative Services – Risk Mgt
REVIEWED BY: Joe Wilcox	DATE: 12/12/2017	PHONE: (402) 471-4178
COMMENTS: No basis to dispute the Department of Administrative Services – Risk Management Division estimate of potential Revolving Fund impact to the Agency from LB 181, as well as the impact to other agencies, if the Risk Management assessment needed to increase.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 181 Revised	AM:	AGENCY/POLT. SUB: City of Lincoln
REVIEWED BY: Joe Wilcox	DATE: 03/01/2017	PHONE: (402) 471-4178
COMMENTS: The City of Lincoln revised its estimated potential fiscal impact to the City from LB 181 from \$ - 0 – to \$100,000 with the latest fiscal note. No basis to dispute revised cost assumptions.		

ADMINISTRATIVE SERVICES STATE BUDGET DIVISION: REVIEW OF AGENCY & POLT. SUB. RESPONSES		
LB: 181 Revised	AM:	AGENCY/POLT. SUB: City of Omaha
REVIEWED BY: Joe Wilcox	DATE: 3/06/2017	PHONE: (402) 471-4178
COMMENTS: The original City of Omaha fiscal note on LB 181, submitted on 1/17/17, indicated No Fiscal Impact to the City from LB 181. The City's revised fiscal note now estimates \$445,000 per year in potential additional costs. The significant difference in estimates is difficult to justify.		

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2018

LB⁽¹⁾ 181

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ Department of Administrative Services (DAS) – Risk Management

Prepared by: ⁽³⁾ Shereece Dendy-Sanders Date Prepared: ⁽⁴⁾ 11/21/2017 Phone: ⁽⁵⁾ 402-471-4436

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2018-19</u>		<u>FY 2019-20</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
REVOLVING FUNDS	<u>780,000</u>	<u>780,000</u>	<u>780,000</u>	<u>780,000</u>
TOTAL FUNDS	<u><u>780,000</u></u>	<u><u>780,000</u></u>	<u><u>780,000</u></u>	<u><u>780,000</u></u>

Explanation of Estimate:

LB181 allows for an injured worker to get a second opinion from a physician of his or her choice, and then requires the employer to pay for that second opinion. This bill has the potential of having a large fiscal impact. Injured workers, by law, have the choice to choose the treating physician. Thus, this physician has medical control. The employer is able to get an independent medical examination from a physician of the employer's choice when there are concerns with the injured worker's treating physician's report and/or concerns with the injured workers behavior or activities outside of his or her treating physician's immediate view. This bills would potentially require the State to pay for a third medical opinion.

This bill creates a fiscal impact, however the exact fiscal impact is unknown. A typical medical examination is \$1,200 to \$2,000. Approximately 1,300 workers' compensation claims are filed by State of Nebraska employees each year. If 650 or half of the claimants (1,300 claims x 50% = 650) request second opinions (at the rate of \$1,200 per exam), that would cost the State an additional \$780,000 per year in examinations only (\$1,200 per exam x 650 exams = \$780,000). There would be additional costs associated with the legal defense of the second opinion and the exposure to possibly paying out benefits that were not in fact owed in the first place.

To insure that the Worker's Compensation Program has the necessary resources to meet current requirements as well as those outlined in LB181, the program would require an increase in revolving fund appropriation and an increase in the Worker's Compensation assessment.

The table below summarizes the estimated impact outlined above by fund type of the estimated increase in the statewide Worker's Compensation assessment. The allocation by fund type is based on total FY16-17 operational expenditures:

	FY18-19	FY19-20
	Expenditures	Expenditures
General Funds	197,264	197,264
Cash Funds	290,114	290,114
Federal Funds	168,440	168,440
Revolving Funds	124,182	124,182
Total Funds	780,000	780,000

The FY18-19 Worker's Compensation Assessment has already been published. The increased assessment may require additional appropriation for all state agencies, boards and commissions including the University and State Colleges.

The FY19-20 and FY20-21 Worker's Compensation Assessments will be developed early in 2019. An increase in the new biennial assessment may require additional appropriation for all state agencies, boards and commissions including the University and State Colleges.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2018-19</u>	<u>2019-20</u>
	<u>18-19</u>	<u>19-20</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
Benefits.....				
Operating.....			780,000	780,000
Travel.....				
Capital outlay.....				
Aid.....				
Capital improvements.....				
TOTAL.....			780,000	780,000

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2017

LB⁽¹⁾ 181

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ City of Lincoln

Prepared by: ⁽³⁾ Jan L. Bolin Date Prepared: ⁽⁴⁾ 1/13/2017 Phone: ⁽⁵⁾ 402-441-8306

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	_____	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	=====	=====	=====	=====

Explanation of Estimate:

This bill would provide reimbursement to workers compensation claimants for their costs to rebut or dispute certain employer medical examination opinions under Nebraska Workers Compensation Act. The employer or insurer would reimburse the cost of the exam, report and transportation costs. The City of Lincoln estimates that about 50 claimants may request medical examination opinions to dispute or rebut the employer's medical opinion report. At an estimated cost of approximately \$2000 per exam and \$100 in transportation cost, the fiscal impact may be \$100,000 if the claimant was limited to one opinion.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

<u>POSITION TITLE</u>	<u>NUMBER OF POSITIONS</u>		<u>2017-18</u>	<u>2018-19</u>
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....	_____	_____	_____	_____
Operating.....	_____	_____	_____	_____
Travel.....	_____	_____	_____	_____
Capital outlay.....	_____	_____	_____	_____
Aid.....	_____	_____	_____	_____
Capital improvements.....	_____	_____	_____	_____
TOTAL.....	_____	_____	_____	_____

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2017

LB⁽¹⁾ 181

FISCAL NOTE

State Agency OR Political Subdivision Name: ⁽²⁾ City of Omaha

Prepared by: ⁽³⁾ Tyler Leimer Date Prepared: ⁽⁴⁾ 3/6/2017 Phone: ⁽⁵⁾ 402-444-4514

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2017-18</u>		<u>FY 2018-19</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	\$445,000		\$445,000	
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS	<u>\$445,000</u>		<u>\$445,000</u>	

Explanation of Estimate:

LB 181 undoubtedly will have a fiscal impact on the City, however, it is difficult to determine the exact amount, therefore the following estimates are provided:

- The cost of an IME can range from \$1,200 to \$2,000.
- The City of Omaha has approximately 350 new workers' compensation claims per calendar year.
- If half of those claimants request second opinions (at \$1,200 per exam), it would cost the City an additional \$210,000 per year in only exam fees.
- There will also be additional expenses such increased TPA fees, internal staff expenses and possibly paying benefits that are not in fact owed to the employee.
- Allowing claimants to seek a second opinion could also lead to additional fees related to the City seeking a third medical opinion (\$1,200 - \$2,000) and also paying additional indemnity payments to the employee if they have not returned to full duty.
- During 2016, the City on average paid \$1,400 per month to active employees receiving indemnity payments.
 - Scheduling an IME can take up to a month or longer depending on the complexity of the claim and type of MD Specialty required for the IME. After the physician conducts the IME, it can take another month (sometimes longer) to receive the written report.
 - The total time waiting for the scheduled IME appointment and the written physician report can easily add two months to the life of a workers' compensation claim.
 - Conservatively speaking, the extra time could cost approximately and additional \$245,000 (# claims 375/50% = 175 * \$1,400 (avg monthly indemnity))
- Finally, LB 181 could potentially require the City to pay for a third medical opinion should there be a stalemate between the initial IME and the employee's request for a second opinion.

In summary, the total estimated annual fiscal impact is \$445,000 for the City of Omaha. For these reasons, the City opposes LB 181. Thank you for considering our opposition to LB 181.

BREAKDOWN BY MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2017-18	2018-19
	<u>17-18</u>	<u>18-19</u>	<u>EXPENDITURES</u>	<u>EXPENDITURES</u>
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
Benefits.....			_____	_____
Operating.....			_____	_____
Travel.....			_____	_____
Capital outlay.....			_____	_____
Aid.....			_____	_____
Capital improvements.....			_____	_____
TOTAL.....			_____	_____